

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Antonio Azios	Team: Team # 1	CCRB Case #: 200613785	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 10/15/2006 1:55 AM	Location of Incident: In front of 90 Bedford Street	Precinct: 06	18 Mo. SOL 4/15/2008	EO SOL 4/15/2008	
Date/Time CV Reported Mon, 10/16/2006 12:07 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 10/16/2006 12:07 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Bourbeau	00109	929762	006 PCT
2. POM Jason Miller	00539	931829	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Bourbeau	Abuse: PO Matthew Bourbeau stopped and questioned § 87(2)(b)	
B.POM Jason Miller	Abuse: PO Jason Miller stopped and questioned § 87(2)(b)	
C.POM Matthew Bourbeau	Force: PO Matthew Bourbeau used physical force against § 87(2)(b)	
D.POM Jason Miller	Force: PO Jason Miller used physical force against § 87(2)(b)	

Synopsis

§ 87(2)(b) filed this complaint by telephone with the CCRB on October 16, 2006. On October 15, 2006, at approximately 1:55 AM, § 87(2)(b) his wife § 87(2)(b) and a friend, § 87(2)(b) left the bar “Chumley’s,” located at 86 Bedford Street, where they had dinner and drinks. While directly outside, § 87(2)(b) and § 87(2)(b) spent approximately 15 seconds looking through a hole in a metal gate, where they could observe one of Chumley’s “secret doors,” as it exited into a narrow alleyway where the bar stored its trash and empty kegs. The precise whereabouts of § 87(2)(b) are unclear, but it is generally understood that she was still inside of the bar putting on her coat at this point. § 87(2)(b) began to walk ahead, with § 87(2)(b) walking a few paces behind him. At this point, two plainclothes officers in an unmarked black car pulled up to the men and approached § 87(2)(b). They identified themselves as police officers and accused him of public urination. § 87(2)(b) did not believe that they were officers due to their clothing and the appearance of their shields, so he lightly tugged on PO Matthew Bourbeau’s shield and said that he was not a police officer. It is unclear whether or not § 87(2)(b) provided the officers with his ID at this point. PO Bourbeau and his partner, PO Jason Miller, grabbed § 87(2)(b) by his arm. The officers are from the 6th Precinct and were identified by the summonses and roll call. He then took a step and said, “Look, you don’t have to be a dickhead about it. I didn’t do that,” referring to the public urination. At this point, the officers deemed § 87(2)(b) uncooperative and forced him to the ground, where he was summarily handcuffed. It was at this point that his identification was obtained from his wallet. § 87(2)(b) and § 87(2)(b) both objected to this treatment by saying that § 87(2)(b) had not committed the offense. The officers issued § 87(2)(b) two summonses, then departed in their vehicle. Following this, the civilians returned to their homes. The summonses were for § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) old White male § 87(2)(b) standing at 5’10” and 168-lbs. with short brown hair and brown eyes. § 87(2)(b) He was interviewed at the CCRB on October 20, 2006 by Inv. Germain Difo (Encl.10A-G) and provided a phone statement (Encl. 9), both within one week of the incident. § 87(2)(b) was contacted by telephone on two other occasions (January 12, 2007 and February 16, 2007), and gave additional information to the undersigned investigator. § 87(2)(g)

On October 15, 2006, at approximately 1:55 AM, § 87(2)(b) his wife § 87(2)(b) and a friend, § 87(2)(b) left the bar “Chumley’s,” located at 86 Bedford Street, where they had dinner and drinks. They had arrived there at approximately 6:30 PM. § 87(2)(b) says that during this period he and § 87(2)(b) had each consumed approximately six alcoholic drinks, while § 87(2)(b) had consumed approximately five. While waiting for § 87(2)(b) to put on her coat, the two men stopped to examine the exterior of the bar, such as an alleyway which contains a hidden door, due to its unique architecture and history as a speakeasy. The bar is well-known for having multiple hidden doors, which its patrons are encouraged to find. They examined the alleyway for approximately 15 seconds, until § 87(2)(b) met them. As they were walking along Bedford Street, the party noticed that an unmarked vehicle (sedan) slowly pulled onto the curb and two plainclothes officers exited the vehicle (License Plate #§ 87(2)(e)). PO1 and PO2 did not identify themselves as police officers. An officer yelled at § 87(2)(b) to stop. The officers then accused § 87(2)(b) of urinating in public, which he denied. The accusations continued, and § 87(2)(b) continued to deny them, and asked the officers to show him where he urinated. Up until this point, § 87(2)(b) and his company were under the impression that the men

were just joking or they were involved in either a prank or a mugging. § 87(2)(b) observed that the men were wearing shields around their necks, but were dressed in street clothes. PO1's shield was hanging from a shoelace marked with "HBO" insignias, and § 87(2)(b) thought that the shields were plastic and fake, "like the kind you would buy in a grocery store." Upon questioning, § 87(2)(b) said that he may have reached out and touched PO1's shield while saying that he did not believe it was real. PO1, identified as PO Matthew Bourbeau by the summonses, became verbally aggressive, and then grabbed one of § 87(2)(b)'s arms and the back of his neck. He then pushed him against the wall of the building to the left of Chumley's. Due to the force of the push, § 87(2)(b) hit and scraped his right cheek on the brick wall. At this point, still under the impression that he was involved in a prank, § 87(2)(b) said to PO Bourbeau, "Look, there is no need to be a dickhead about it. I didn't do that." § 87(2)(b) felt that this was a justified reaction to the circumstances, and he admitted that his tone became "uptight" and louder, though he was not yelling. He was then tripped and pinned on the ground by both officers. When he hit the ground his right cheek hit the concrete, exacerbating the scrape. He was then handcuffed. At this point the officers obtained his ID either by taking it from his wallet. He is unsure whether his wallet had already fallen on the ground or if the officers had taken it from his pocket. PO2, later identified as PO Jason Miller by PO Bourbeau, took § 87(2)(b) to the back of the police vehicle while PO Matthew Bourbeau was at its front, filling out summonses. § 87(2)(b) spoke to PO Miller at this point, saying, "If he had done that [urinated], there would be some evidence. Can you show us some evidence?" As this incident occurred, several people exited the bar. § 87(2)(b) says that no more than a minute passed between the time when the officers ordered him to stop and when he was placed in handcuffs. § 87(2)(b) had a scratch on his face and bruised the inside of his right knee as a result of the officers' use of force. He did not seek medical treatment or document these injuries.

PO Matthew Bourbeau issued § 87(2)(b) two summonses: one, for § 87(2)(b), the other for § 87(2)(b). After the officers left the scene, all parties returned to their homes. § 87(2)(b) insists that neither he nor anyone in his party had urinated in public.

§ 87(2)(b) stated that while both officers were aggressive, PO Matthew Bourbeau was more so. § 87(2)(b) observed that PO Bourbeau wore a plastic ID holder around his neck that contained a card that read "HBO," as in the television station. This contributed to § 87(2)(b)'s not immediately grasping that he was dealing with a police officer. He describes the officer's use of force as "trigger-happy aggression."

Results of Investigation

§ 87(2)(b)

On October 20, 2006, § 87(2)(b) attended a CCRB interview as a witness to her husband's, § 87(2)(b) complaint, where she was interviewed by Inv. Germain Difo. (Encl. 11A-D) § 87(2)(b) is a § 87(2)(b)-old White female § 87(2)(b), standing at 5'5" and 118 lbs., with brown hair and brown eyes. § 87(2)(b)

§ 87(2)(g)

At approximately 1:55 AM on October 15, 2006, § 87(2)(b) exited Chumley's bar, approximately one minute after her husband, § 87(2)(b) and their friend, § 87(2)(b) had exited. She noticed that two White men were speaking to her husband and their friend, § 87(2)(b). These men were later identified as police officers. She did not hear what was said, but described the interaction as animated, as if they were upset. § 87(2)(b) described her husband's demeanor as dismissive, as if the two men were strangers trying to pick a fight and he was trying to minimize interaction with them. § 87(2)(b) was projecting "leave me alone" body language. As she approached them she witnessed the two men grab § 87(2)(b) and throw him on the ground, then handcuff him. § 87(2)(b) thought it was a joke, and did not know for certain that the two men were police officers until the summonses were issued. She picked up § 87(2)(b)'s wallet, which had fallen to the floor, and asked the officers what was happening. They asked who she was and she replied that she

was § 87(2)(b)'s wife. They informed her that he was seen urinating on the street. She did not witness him urinate.

§ 87(2)(b)

On November 30, 2006, § 87(2)(b) gave a phone statement to the undersigned investigator and signed a verification form on January 24, 2007. (Encl. 12A-D) § 87(2)(b) a § 87(2)(b)-old White male § 87(2)(b), stands at 5'11" and 190 lbs., with black hair and brown eyes. § 87(2)(b)

§ 87(2)(g)

While at Chumley's, § 87(2)(b) consumed approximately four beers, and believed that his friends each consumed approximately the same number of drinks. They had never been to Chumley's before, but from his understanding, there were several "secret doors" in and out of the pub. For example, they were sitting near a door that looked like a bookcase. They had observed a waitress using it to enter and exit the bar throughout the night.

After exiting the bar, § 87(2)(b) was walking slightly ahead of § 87(2)(b). He remembered looking down an alleyway, located approximately 10 to 20 feet from the bar's front entrance, between a hotel and another building. He remembered thinking that it must have been where the waitress had been going in and out when she would exit through the bookcase door. There was a fence with sheet metal behind it guarding the alleyway, which had a little cutaway just above the eye line. He stood on the tips of his toes in order to look at the alleyway. § 87(2)(b) believed that the establishment keeps their garbage in this alleyway. He said to § 87(2)(b) "Take a look down there." § 87(2)(b) came and looked through the hole in the gate. § 87(2)(b) is a few inches shorter than § 87(2)(b) so, according to § 87(2)(b) he would have most likely been standing on the tips of his toes to peer through the hole. While § 87(2)(b) looked over the gate, § 87(2)(b) continued to walk up Bedford Street. He remembered seeing a black two-door car driving in reverse with the right door open. He remembered thinking, "That's a bit dangerous" because there was an SUV behind it. Then the car stopped and, with the door still open, pulled onto the curb near § 87(2)(b) and § 87(2)(b) then parked.

At this point, two men approached § 87(2)(b) and demanded to see his identification. § 87(2)(b) did not recall § 87(2)(b) refusing to provide it. They then quickly grabbed him by the shoulders. As the two men approached § 87(2)(b) and grabbed him, § 87(2)(b) remembers thinking, "Oh shit, we're getting mugged." This occurred roughly 10 seconds after § 87(2)(b) had walked away from him at the gate. § 87(2)(b) had not made any motions or comments indicating that he was going to urinate, and as § 87(2)(b) walked away he did not hear any sounds that indicated someone was urinating nearby.

The officers were yelling at § 87(2)(b) but he did not remember exactly what they said. Then they said repeatedly, “Do you want to get arrested?” § 87(2)(b) did not believe that they were police officers because they were acting unprofessionally, in his opinion, and because of their plainclothes. They repeatedly asked for § 87(2)(b)’s ID as PO1, whom § 87(2)(b) identified as PO Bourbeau, continued to push him. It was at this point that § 87(2)(b) § 87(2)(b)’s wife, arrived and caught § 87(2)(b) attention. Both officers then grabbed § 87(2)(b) so that he could not move freely. They were shouting, “Give us your ID. Give us your ID.” Still unsure of whom they were dealing with, § 87(2)(b) thought the officers were demanding to see § 87(2)(b)’s ID so that they could grab his wallet and run. Their behavior made him think they weren’t officers, as they were extremely aggressive. The officers kept repeating, “Do you want to go to jail?” There was a continuing scuffle, and § 87(2)(b) tried to regain his posture and mobility from the officers as they forcefully gripped him. During the scuffle the officers pushed § 87(2)(b) against a brick wall, where they handcuffed him. He was then shoved to the ground, where he hit and scraped his cheek. § 87(2)(b) said, “No one was running. It was completely unrequired. Then somehow he [PO Bourbeau] pushed him down and § 87(2)(b) was on the ground. I remember

thinking that it had gotten completely out of control.” § 87(2)(b) does not remember if they pushed him against the wall before or after they took his ID. He remembered thinking, “Why on earth would they push him against the wall?” He also said, “The situation escalated further and further out of control. § 87(2)(b) did not provoke it, he couldn’t even move.”

§ 87(2)(b) was crying, so § 87(2)(b) tried to calm her down. He then asked the officers, “What is going on?” They answered that § 87(2)(b) had been seen urinating in public. § 87(2)(b) replied, “Guys, you’ve got the wrong person. I know § 87(2)(b) very well. There’s been a mistake, I promise.” The officers told him to move away. § 87(2)(b) addressed PO Jason Miller, who he described as the less aggressive of the two and who was no longer holding § 87(2)(b). He said to him, “Could you please come over? I’ll show you what has happened here. We were talking about these doors, I pointed down there, and then § 87(2)(b) pointed down and immediately this started happening. I’m absolutely sure he wasn’t urinating.” § 87(2)(b) remembered asking, “Why did you think he did it?”

§ 87(2)(b) recalled there being some sort of liquid near the gate where § 87(2)(b) was said to have urinated, but he did not think that it was urine. He felt that it was probably a leak from the garbage bins behind the gate in the alleyway. § 87(2)(b) mentioned in the interview that he passed by Chumley’s a few weeks after the incident in question and saw a puddle in the same area, as if it was a common area for liquid to gather.

After issuing the two summonses, the officers removed the handcuffs, returned to their vehicle, then left. The three friends hung around for a couple of minutes collecting their thoughts, and calmed down. They walked up to Grove Street, where § 87(2)(b) and § 87(2)(b) took a taxi to their residence in the Upper West Side. § 87(2)(b) who lives in the area, walked home.

§ 87(2)(b) said, “There was nothing disorderly about my friend’s behavior. There was something grossly disorderly and inappropriate about the police officers’ behavior.”

When the investigator asked if he remembered § 87(2)(b) saying to the officers, “Look there is no need to be a dickhead about it, I didn’t do that,” in reference to urinating in the street, he didn’t remember. § 87(2)(b)

Officer Statements

PO Matthew Bourbeau

PO Matthew Bourbeau provided a statement to the CCRB on December 8, 2006. (Encl. 13A-F) The undersigned investigator, Inv. Josue Goetz, and PBA Attorney Joe Scinelli were present. On October 15,

2006, PO Bourbeau worked with PO Jason Miller from 14:30 PM to 03:05 AM on an extended tour, and was assigned to Anti-Crime. Both officers were in plainclothes and assigned to an unmarked patrol car (black Pontiac), #§ 87(2)(e) PO Bourbeau had the following memo book entries regarding the incident:

(0155 Summons #s § 87(2)(b) and § 87(2)(b) for § 87(2)(b) in front of 90 Bedford Street.)

On October 15, 2006, at approximately 1:00 AM, PO Bourbeau and PO Miller were “probably driving” along Bedford Street in Manhattan, when they observed a White male urinating against a brick wall in front of 90 Bedford Street, approximately 15 feet from the entrance to the bar “Chumley’s.” PO Bourbeau did not recall who first observed the male urinating. They observed this act for “a few seconds” before parking and exiting the vehicle. PO Bourbeau did not recall whether the male was standing in front of or near a gate or fence that would have been blocking an alleyway. PO Bourbeau did not recall whether he had been the operator or the recorder. While approximately 10 feet away, he observed what he believed to be urine coming down the wall and onto the sidewalk that the male was facing. When the man, § 87(2)(b) appeared to have finished urinating, PO Bourbeau and PO Miller approached him and pulled out their shields. They verbally identified themselves as New York City police officers and informed him that he had been seen urinating. PO Bourbeau had his radio in his hand, but did not call for backup. At that point, § 87(2)(b) reached out and lightly tugged on PO Bourbeau’s shield, which was hanging from his neck on a black shoestring with HBO insignias, and said, “You’re not a real cop.” PO Bourbeau said, “I am a cop,” then asked for ID numerous times. § 87(2)(b) willingly provided the officer with his ID. § 87(2)(b) repeatedly insisted that he was not urinating. § 87(2)(b) appeared “a little intoxicated.”

PO Bourbeau attempted to place § 87(2)(b) in handcuffs by grabbing an arm, but he resisted by attempting to step away from the officers. § 87(2)(b) became loud and cursed at him, so PO Bourbeau (and “probably” PO Miller assisting) forced him onto the ground. PO Bourbeau handcuffed him. § 87(2)(b) called PO Bourbeau “an asshole or a dickhead,” but he does not remember which. PO Bourbeau took § 87(2)(b) to the ground by placing a leg behind his and pushing him over it, as he and PO Miller gripped his arms and shoulders. PO Bourbeau did not believe that he or PO Miller pushed or held § 87(2)(b) against a wall prior to taking him to the ground. PO Bourbeau did not recall whether he issued § 87(2)(b) any instructions prior to bringing him to the ground. After this, § 87(2)(b) became very apologetic and told the officers that he did not realize that they were with the NYPD. § 87(2)(b) expressed that in Australia, where he and his accompanying friends are from, police officers patrol in uniform. PO Bourbeau “used [his] discretion” and issued § 87(2)(b) two summonses rather than arresting him. He did not recall observing or being told of any injuries that § 87(2)(b) may have received.

§ 87(2)(b) was accompanied by a male and a female, who PO Bourbeau believed was his girlfriend. While § 87(2)(b) was facing the wall and urinating, his two companions were standing away from him. When the officers approached § 87(2)(b) and accused him of public urination, his friends approached and said, “He wasn’t doing anything.” PO Bourbeau said that the female was already present when he approached § 87(2)(b). The female was crying and saying, “He didn’t do anything,” but calmed down shortly after. PO Bourbeau did not recall anyone asking him to inspect the area where the urine was alleged to be.

PO Bourbeau, in regards to his demeanor, said, “I thought it was professional. I don’t remember exactly what I said. I’m out there everyday. I remember.” He stated that PO Miller’s demeanor “was fine.” PO Bourbeau did not remember what he and PO Miller were wearing that night, but said that his shield does hang from a string with “HBO” insignias. PO Bourbeau did not remember what § 87(2)(b) or his friends were wearing. PO Bourbeau did not observe § 87(2)(b) standing on his toes or in the process of searching for something. PO Bourbeau was not aware of any unique architectural elements to the bar Chumley’s, such as “secret doors.”

PO Jason Miller

PO Jason Miller provided a statement to the CCRB on December 12, 2006. (Encl. 13A-D) The undersigned investigator, Inv. Shadia Savo, and PBA Attorney Michael Bosco were present. On October 14-15, 2006, PO Miller worked with PO Matthew Bourbeau from 14:30 PM to 03:05 AM on an extended tour, and was assigned to Anti-Crime. Both officers were in plainclothes and assigned to an unmarked patrol car (black Pontiac), #§ 87(2)(e) PO Miller had no memo book entries regarding the incident.

PO Jason Miller's account was consistent with PO Matthew Bourbeau's, except where noted below:

At approximately 2:00 AM on October 15, 2006, PO Jason Miller and PO Matthew Bourbeau were driving on Bedford Street in Manhattan when they observed a person standing with his back to the street, facing a wall, and standing above a puddle. After exiting the vehicle, they could see and smell the puddle of urine near the wall. PO Miller described the wall as a black metal fence, covering up the back lot of a building next to a brownstone. PO Miller does not recall who first spoke to the individual, but he knows that they both did. They identified themselves as police officers and, according to his initial narrative, twice asked the male to give them his identification, but he refused. Upon further questioning, PO Miller stated that he was asked for ID approximately three to five times, but he "can't really say" how many times for sure. At this point the male White pulled on PO Bourbeau's shield and said, "You guys aren't fucking cops." The officers grabbed the individual, who then began to "flare his arms," by lifting them away from their grasp, and tried to walk away. They put pressure on his arms (never the neck) and brought him to the ground. PO Bourbeau placed him in handcuffs while PO Miller was applying "necessary pressure" by pushing his arms against his back. They did not place him against a wall prior to bringing him to the ground. He was then picked back up and frisked. No weapons or drugs were found on his body, but they removed his ID from his back pocket after the individual told them it was there. They did not search the inside of any other pockets. He was then walked to the rear of the police vehicle. The male, by now identified as § 87(2)(b) was very apologetic. PO Bourbeau then issued him two summonses. Another male and female accompanied § 87(2)(b) but they were not issued any summonses. After the situation began to end, his two friends approached the officers and were also very apologetic, especially the male.

PO Miller did not remember when the female approached the scene. PO Miller did not recall whether any of them denied that § 87(2)(b) was urinating. PO Miller could not recall whether § 87(2)(b) had appeared to be intoxicated. He described § 87(2)(b)'s demeanor as being "arrogant and irate." PO Miller does not recall § 87(2)(b)'s friends saying that they did not know that they were police officers. He did not recall them asking for an explanation as to why he thought their friend was urinating. PO Miller remembered them having accents. PO Miller believed that the entire incident lasted approximately 10 minutes, with the physical interaction lasting approximately 15 seconds. § 87(2)(b) did not indicate to the officers that he had received any injuries from the incident.

Photo Evidence

The undersigned investigator twice canvassed the area of the incident and was able to determine that the civilians' account of the unique architectural characteristics, such as "secret doors," of the bar "Chumley's" are as they described. In addition, § 87(2)(b) detailed description of the black gate blocking an alleyway where one of the secret doors disguised as a bookcase leads to, and the regular presence of a malodorous puddle in front of it due to leaking trash cans and kegs, indicates that the officers could have been mistaken in their judgment that § 87(2)(b) had urinated in that spot. (Encl. 7A-D) A review of the photos will show two different dates. This is due to their being rain on the first visit, which hindered the investigator from accurately determining whether fluids regularly accumulate at the door to the alleyway. There had not been any measurable precipitation in New York City for three days when the investigator took the latter photographs, as confirmed by www.weatherunderground.com. (Encl. 19)

Disposition of Criminal Summonses

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conviction History of [§ 87(2)(b)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Substantiated CCRB allegations that resulted in the imposition of discipline

Neither of the officers have any substantiated CCRB allegations on record. (Encl. 1-2)

Conclusions and Recommendations

Officer Identification

[§ 87(2)(b)] and [§ 87(2)(b)] identified PO Matthew Bourbeau by name, as did the summonses which he issued. PO Bourbeau and various police documents identified PO Jason Miller as PO Bourbeau's partner on the night in question. Both officers agree that they were partnered with each other on the night of the incident. By all accounts, both PO Bourbeau and PO Miller initiated the interaction by stopping [§ 87(2)(b)] and asking for identification. By all accounts, both officers physically restrained and handcuffed [§ 87(2)(b)].

Undisputed Facts

It is undisputed that [§ 87(2)(b)] and [§ 87(2)(b)] left the bar Chumley's on Bedford Street in Manhattan at approximately 2:00 AM on October 15, 2006. All of the individuals had consumed food and alcohol over the course of the seven hours that they had been at Chumley's. After exiting the bar, [§ 87(2)(b)] and [§ 87(2)(b)] stopped to look through a metal gate on the side of the bar that covers a narrow alleyway. Immediately after this, two plainclothes officers (PO Matthew Bourbeau and PO Jason Miller) drove up to them in a black unmarked police vehicle. They exited the vehicle and approached [§ 87(2)(b)]. They accused him of urinating in public and asked for his identification. [§ 87(2)(b)] denied having urinated and told the officers that he did not believe they were the police. Both officers forced [§ 87(2)(b)] to the ground, where he was handcuffed by PO Bourbeau. [§ 87(2)(b)] was crying at this point. [§ 87(2)(b)] was calm and denied that [§ 87(2)(b)] had urinated. PO Bourbeau issued two summonses to [§ 87(2)(b)] for [§ 87(2)(b)] before he and PO Miller left the scene. Afterwards, the three civilians went to their homes.

Disputed Facts

None of the civilians stated that the officers immediately identified themselves as the police, other than by displaying their shields. [§ 87(2)(b)] stated that they did not verbally identify themselves until after they had already accused him of public urination and used physical force against him. [§ 87(2)(b)] claimed to have been out of hearing range at this point in the interaction. [§ 87(2)(g)]

[§ 87(2)(b)] did not ever hear them identify themselves as officers, but instead asked questions alluding to it, such as "Do you want to go to jail?" and

“Do you want to get arrested?,” only after they began to physically restrain § 87(2)(b). However, the civilians did state that their shields were displayed. Both officers stated that they verbally identified themselves as police officers upon their approach, as well as displayed their shields. § 87(2)(g)

PO Bourbeau stated that § 87(2)(b) said, “You’re not a real cop,” then insisted that he was not urinating. PO Miller stated that § 87(2)(b) said, “You guys aren’t fucking cops.” PO Bourbeau stated that it was at this point that § 87(2)(b) willingly provided his identification to the officers, whereas PO Miller stated that it was only after § 87(2)(b) had been handcuffed that it was removed from his pocket by one of the officers. § 87(2)(b) is not sure whether the officers removed his identification from his pocket or from his wallet, as it may have fallen to the floor during the scuffle. § 87(2)(b) said that he was not asked for his ID at any point. § 87(2)(b) stated that § 87(2)(b)’s wallet had fallen to the floor and she picked it up. § 87(2)(b) stated that the officers asked him for his ID immediately before grabbing and pushing him, then continued to demand it as they forced him to the ground. He did not know exactly how his ID was obtained. § 87(2)(b) stated that after he tugged on PO Bourbeau’s shield, he was yelled at then pushed against a brick wall by PO Bourbeau. § 87(2)(b) stated that this caused a scratch to his cheek, but both officers stated that they were never made aware of such an injury. In addition, both officers believed that they brought § 87(2)(b) straight to the ground, without ever placing him against a brick wall. § 87(2)(b) asserted that it was at this point, while still under the impression that the men were not real police officers, he said to PO Bourbeau, “Look, there is no need to be a dickhead about it. I didn’t do that.” § 87(2)(b) said that it was at this point that the officers tripped him and forced him onto the ground, where he was handcuffed. § 87(2)(g)

§ 87(2)(b) maintained that the officers grabbed § 87(2)(b) by the shoulders immediately after demanding to see his ID. According to § 87(2)(b) as the officers held § 87(2)(b) he took a step to maintain his balance, so they forced him against the brick wall, then to the ground. He also said that § 87(2)(b) received the scratch after having his cheek hit the ground. While the summonses were being issued, § 87(2)(b) stated that he was attempting to gather information from PO Miller about why they believed that § 87(2)(b) had been urinating, but PO Miller does not recall this. None of the civilians stated that they acted apologetic towards the officers after § 87(2)(b) was issued summonses, as both officers stated.

Assessment of Evidence

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

Allegation A: PO Matthew Bourbeau stopped and questioned § 87(2)(b)

Allegation B: PO Jason Miller stopped and questioned § 87(2)(b)

§ 87(2)(g)

Allegation A: PO Matthew Bourbeau used force against § 87(2)(b)

Allegation B: PO Jason Miller used force against § 87(2)(b)

§ 87(2)(g)

PO Bourbeau stated that after § 87(2)(b) tugged on his shield, he willingly provided his ID. It was only at this point that they decided to use physical force against him, according to PO Bourbeau. § 87(2)(g)

§ 87(2)(g) PO Miller § 87(2)(g)

§ 87(2)(b) stated that they used physical force against him immediately after he tugged on the shield, and that they did not obtain his ID until after he was handcuffed. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date